HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE

WRIT PETITION No.16470 1996

Between:

Smt.Chintapalli Ramalakshmi … Petitioner

AND

Agent to Government, East Godavari
District, Kakinada and others. … Respondents.

:: O R D E R ::

Counsel for the petitioner : Sri G.Dharma Rao

Counsel for respondent Nos.1 and 2 : Government Pleader for Social Welfare.

Counsel for respondent No.3 and 4 : None.

28th June, 2006

In this petition, the petitioner has prayed for quashing order dated 9-5-1996 passed by Agent to Government, East Godavari District, Kakinada (respondent No.1) whereby he dismissed the appeal filed by the petitioner against order dated 11-5-1994 passed by Deputy Collector, Tribal Welfare, Rampachodavaram (respondent No.2).

Special Deputy Tahsildar, Tribal Welfare, Gangavaram, East Godavari District filed a complaint under Clause 3 of the Andhra Pradesh Scheduled Areas Land Transfer Regulation, 1959 (for short, 'the 1959 Regulation') as amended in 1970 on behalf of the petitioner for restoration of what was described as scheduled land measuring 6.82 hectares comprised in Survey Nos.43 and 44 of Mohanapuram Village, Gangavaram Mandal. The same was registered as

L.T.R.P.No.66/83. Respondent No.3 was impleaded as a party, but he did not respond to the notice issued by respondent No.2. Respondent No.4 filed an application for impleadment as party to the case by claiming that he is the owner of the land in dispute. His application was allowed and he was impleaded as a party. The petitioner appeared as P.W.1 and deposed that the land was being cultivated by her husband, Ranga Raju; that after his death, the land was given to the father of respondent No.3 – Raja Madhuveeti Sivasekhara Bhupathi Dev on lease for a sum of Rs.1500/- per annum, but after few years he left the village and respondent No.4 forcibly occupied the land. Respondent No.3 deposed that he has nothing to do with the land in question and that ryotwari patta was granted to respondent No.4 in 1974 under the Andhra Pradesh Muttas (Abolition and Conversion into Ryotwari) Regulation, 1960 (for short, 'the 1960 Regulation'). In his deposition, respondent No.4 stated that his father Pinnamraju Venkata Suryanarayana Raju was cultivating the land measuring 4.40 hectares in Survey No.43 and 2.42 hectares in Survey No.44 of Mohanapuram Village; that on an application made by his father, which was registered as Case No.1723/73, Settlement Officer, Peddapuram passed order dated 24-5-1974 for grant of patta under the 1960 Regulation. Thereafter, ryotwari patta bearing No.37 was issued in his favour. Respondent No.4 produced Xerox copies of order dated 24-5-1974 passed by Settlement Officer, Peddapuram and Ryotwari Patta No.37. He further stated that in 1983, L.T.R.P.No.66/83 was registered against his father, but the same was dropped by respondent No.2 by observing that no prohibited transfer of land was involved in the case. Copy of order dated 31-5-1984 passed by respondent No.3 in L.T.R.P. No.66/83 was also produced by respondent No.4. After considering the submissions made by the parties and the documents produced before him, respondent No.2 passed order dated 11-5-1994 vide which he dismissed the complaint filed by Special Deputy Tahsildar.

The petitioner challenged the aforementioned order by filing an

appeal under Clause 3(3) of the 1959 Regulation. Respondent No.1 dismissed the same by observing that in view of order dated 31-5-1984 passed by respondent No.2 in L.T.R.P.No.66/83, the land in dispute cannot be restored to the petitioner moreso because ryotwari patta issued in favour of the father of respondent No.4 had not been cancelled. At the same time, he directed Revenue Divisional Officer, Rampachodavaram to file an appeal against order dated 24-5-1974 passed by Settlement Officer, Peddapuram in Case No.1723/73.

Sri G.Dharma Rao, learned counsel for the petitioner assailed the impugned order by arguing that respondent Nos.1 and 2 committed a serious illegality by non-suiting his client only on the basis of order dated 31-5-1984 passed by respondent No.1 in L.T.R.P.No.66/83. He submitted that the petitioner was not a party to the proceedings of L.T.R.P. No.66/83 and, therefore, the order passed in that case cannot operate as res judicata against her claim for restoration of the land. Learned counsel emphasized that in view of the provisions contained in 1959 Regulation, as amended in 1970, land belonging to the tribals cannot be transferred to non-tribals and, therefore, order dated 24-5-1974 passed by Settlement Officer, Peddapuram granting ryotwari patta in favour of the father of respondent No.4 is liable to be treated as nullity and respondent No.4, who is a non-tribal cannot retain possession of the land merely because ryotwari patta was ordered to be issued in favour of his father.

Learned Government Pleader supported the impugned order and argued that the petitioner cannot seek indirect invalidation of order dated 31-5-1984 passed in L.T.R.P.No.66/83 because that order is not under challenge in this petition. He submitted that even though the petitioner was not a party to the earlier proceedings, the order passed in that proceeding cannot be invalidated without appropriate challenge and prayer. He argued that unless ryotwari patta issued in favour of the father of respondent No.4 is cancelled, possession of the land in dispute cannot be restored to the petitioner.

I have thoughtfully considered the respective arguments. The petitioner has not controverted the fact that the proceedings initiated on an earlier occasion by means of complaint filed under Clause 3 of the 1959 Regulation, which was registered as L.T.R.P.No.66/83, were dropped by respondent No.2 vide his order dated 31-5-1984 and Ryotwari Patta No.37 was issued in favour of the father of respondent No.4 pursuant to order dated 24-5-1974 passed in Case No.1723/73 by Settlement Officer, Peddapuram. For the reasons best known to her, she has not challenged either of these orders. Therefore, it is not possible to, directly or indirectly, nullify those orders on the premise that the petitioner was not a party in the proceedings initiated by Special Deputy Collector, Tribal Welfare, Gangavaram.

I am further of the view that respondent Nos.2 and 1 did not commit any illegality by refusing to entertain the appellant's prayer for restoration of possession of the land in dispute to her on the premise that the proceedings relating to grant of ryotwari patta in favour of the father of respondent No.4 had not been challenged and a complaint filed on an earlier occasion under Clause 3 of the 1959 Regulation was dropped by the competent authority.

In the result, the writ petition is dismissed.

As a sequel to dismissal of the writ petition, WPMP.No.20238 of 1996 filed by the petitioner for interim relief is also dismissed.

G.S.SINGHVI, C.J.

28th June, 2006.

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